

111TH CONGRESS
1ST SESSION

S. 939

To establish national and State putative father registries, to make grants to States to promote permanent families for children and responsible fatherhood, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 30, 2009

Ms. LANDRIEU introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To establish national and State putative father registries, to make grants to States to promote permanent families for children and responsible fatherhood, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Protecting Adoption
5 and Promoting Responsible Fatherhood Act of 2009”.

1 **SEC. 2. ESTABLISHMENT OF NATIONAL AND STATE PUTA-**
 2 **TIVE FATHER REGISTRIES TO FACILITATE**
 3 **ADOPTIONS.**

4 Part B of title IV of the Social Security Act (42
 5 U.S.C. 620 et seq.) is amended by adding at the end the
 6 following:

7 **“Subpart 3—National and State Putative Father**
 8 **Registries to Facilitate Adoptions**

9 **“SEC. 440. DEFINITIONS.**

10 “In this subpart:

11 “(1) BUSINESS DAY.—The term ‘business day’
 12 means a day on which Federal and State offices are
 13 open for regular business.

14 “(2) HOME ADDRESS.—The term ‘home ad-
 15 dress’ means the most recent place of residence of
 16 an individual.

17 “(3) NATIONAL PUTATIVE FATHER REG-
 18 ISTRY.—The term ‘National Putative Father Reg-
 19 istry’ means the registry established and maintained
 20 under section 441.

21 “(4) NOTICE.—The term ‘notice’ means notice
 22 sufficient to satisfy any requirements under State
 23 law applicable with respect to notice to a putative fa-
 24 ther of paternity, of a proceeding to terminate his
 25 rights to a child, or of a proceeding that is related
 26 to a planned or pending adoption in that State of a

1 child he has, or may have fathered, or the entry of
2 such a child into State custody.

3 “(5) PENDING ADOPTION.—The term ‘pending
4 adoption’ means any adoption in which an adoption
5 petition has been filed with a court pursuant to
6 State law.

7 “(6) PLANNED ADOPTION.—The term ‘planned
8 adoption’ means any adoption in which the birth
9 mother has formally contacted an attorney or a
10 State licensed adoption agency about placing her
11 child for adoption.

12 “(7) PUTATIVE FATHER.—The term ‘putative
13 father’ means a man who has had sexual relations
14 with a woman to whom he is not married and is
15 therefore presumed to know that such woman may
16 be pregnant as a result of such relations.

17 “(8) SEARCH.—The term ‘search’ means a re-
18 quest for information regarding a man who had sex-
19 ual relations with a woman to whom he is not mar-
20 ried and is therefore presumed to know that such
21 woman may be pregnant.

22 “(9) STATE PUTATIVE FATHER REGISTRY.—
23 The term ‘State Putative Father Registry’ means,
24 with respect to a State, the registry established or

1 modified and maintained under section 444 for that
2 State.

3 **“SEC. 441. NATIONAL PUTATIVE FATHER REGISTRY.**

4 “(a) ESTABLISHMENT AND MAINTENANCE.—

5 “(1) IN GENERAL.—Not later than the date
6 that is 180 days after the date of enactment of this
7 subpart, the Secretary shall establish and maintain
8 an automated National Putative Father Registry
9 that contains the information described in section
10 444(c).

11 “(2) DATA ENTRY AND DELETION REQUIRE-
12 MENTS.—

13 “(A) DATA ENTRY.—Information trans-
14 mitted by a State under section 444(d)(2) shall
15 be entered into the National Putative Father
16 Registry not later than the date that is 2 busi-
17 ness days after the date on which such informa-
18 tion is received.

19 “(B) DELETION OF DATA.—Information
20 entered into the National Putative Father Reg-
21 istry shall remain in the registry for not less
22 than 20 years from the date of entry.

23 “(3) ACCESS TO INFORMATION IN THE NA-
24 TIONAL PUTATIVE FATHER REGISTRY.—Access to
25 the information contained in the National Putative

1 Father Registry is limited to the organizational unit
2 that is responsible for administering the State Puta-
3 tive Father Registry under section 443(3) and any
4 State agencies or entities that are involved in the
5 placement of children.

6 “(4) SEARCH REQUESTS.—

7 “(A) IN GENERAL.—The Secretary shall
8 only accept a request from an eligible party de-
9 scribed in subparagraph (B) to search the Na-
10 tional Putative Father Registry if such request
11 has been verified for authenticity.

12 “(B) ELIGIBLE PARTIES DESCRIBED.—The
13 eligible parties described in this subparagraph
14 are as follows:

15 “(i) Public and licensed private adop-
16 tion or child placement agencies accessing
17 information for an adoption or termination
18 of rights of a putative father.

19 “(ii) Licensed attorneys representing
20 a party in a planned or pending adoption
21 or the termination of rights of a putative
22 father.

23 “(iii) The State agency responsible for
24 administering the State plan under part D
25 of this title.

1 “(iv) State agencies or entities respon-
2 sible for the placement of children.

3 “(v) State courts.

4 “(C) FEE.—The Secretary is authorized to
5 charge a reasonable fee for a search conducted
6 under this subsection.

7 “(5) LIMITATION ON DISCLOSURE OF INFORMA-
8 TION.—No information contained in the National
9 Putative Father Registry shall be disclosed to any
10 person if the disclosure of such information would
11 contravene a national security interest of the United
12 States or if such disclosure would compromise the
13 confidentiality of census data.

14 “(6) METHODS FOR REQUESTING A SEARCH OF
15 THE NATIONAL DATABASE.—A person who is eligible
16 to request a search under this section may do so ei-
17 ther electronically or through the mail.

18 “(7) CERTIFICATE OF SEARCH.—

19 “(A) ISSUANCE.—Within 2 business days
20 of receipt of a search request under paragraph
21 (4), the Secretary shall issue by mail a certifi-
22 cate of search to the person who requested the
23 search.

24 “(B) CONTENTS.—The certificate of
25 search shall contain—

1 “(i) the names and most recent con-
2 tact information for possible putative fa-
3 thers; and

4 “(ii) the State Putative Father Reg-
5 istries included in the search.

6 “(C) EFFECT OF CERTIFICATE.—A certifi-
7 cate issued under this paragraph shall serve as
8 evidence of efforts to locate a putative father in
9 order to provide the putative father with notice
10 of a proceeding to establish paternity of, of a
11 proceeding to terminate the putative father’s
12 rights to, or of a proceeding related to a pend-
13 ing or planned adoption of a child the putative
14 father has or may have fathered, or of the entry
15 of such a child into State custody.

16 “(8) NOTICE TO REGISTERED PUTATIVE FA-
17 THERS.—Each putative father identified by a certifi-
18 cate of search issued in response to a request under
19 paragraph (4)(A) shall be provided notice in such
20 form and manner, and subject to such time limits,
21 as specified by the law of the forum State of any of
22 the following unless and until the putative father’s
23 rights to the child have been terminated:

1 “(A) A proceeding related to a pending or
2 planned adoption of a child the putative father
3 has, or may have, fathered.

4 “(B) A proceeding to terminate the puta-
5 tive father’s rights to a child.

6 “(C) A proceeding related to the entry of
7 a child the putative father has, or may have, fa-
8 thered into State custody.

9 “(D) Establishment of paternity.

10 “(9) CERTIFICATE OF REGISTRATION.—

11 “(A) ISSUANCE.—Within 2 business days
12 of receipt of information transmitted by a State
13 under section 444(d), the Secretary shall issue
14 by mail a certificate of registration to the indi-
15 vidual registered.

16 “(B) EFFECT OF CERTIFICATION.—A cer-
17 tificate issued under this section shall serve as
18 evidence that a putative father has registered
19 with a State Putative Father Registry request-
20 ing that he receive notice of a proceeding to es-
21 tablish paternity of, of a proceeding to termi-
22 nate the putative father’s rights to, or of a pro-
23 ceeding related to a planned or pending adop-
24 tion of a child the putative father has or may

1 have fathered, or of the entry of such a child
2 into State custody.

3 “(b) NATIONAL MEDIA EDUCATIONAL CAMPAIGN.—

4 The Secretary shall establish a nationwide responsible fa-
5 therhood and putative father registry educational cam-
6 paign that is designed—

7 “(1) to inform men of the existence of the Na-
8 tional Putative Father Registry, the advantages of
9 registering with a State Putative Father Registry,
10 and the rights and responsibilities of putative fa-
11 thers; and

12 “(2) to inform women of the existence of the
13 National Putative Father Registry and the potential
14 role of that registry in a pending or planned adop-
15 tion or a termination of the rights of a putative fa-
16 ther.

17 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
18 are authorized to be appropriated to carry out this section,
19 such sums as are necessary for fiscal year 2009 and each
20 fiscal year thereafter

21 **“SEC. 442. GRANTS TO STATES TO PROMOTE RESPONSIBLE**
22 **FATHERHOOD.**

23 “(a) GRANTS TO STATES.—Subject to subsection (b),
24 the Secretary shall make grants to eligible States for the
25 purpose of—

1 “(1) assisting States in developing, establishing,
2 and operating programs that are designed—

3 “(A) to improve the protection of the
4 rights of responsible unwed fathers in legal pro-
5 ceedings involving a planned or pending adop-
6 tion, the termination of a father’s rights to a
7 biological child, or the entry of a child into the
8 State child welfare system;

9 “(B) to improve the laws and regulations
10 involving the pre-birth abandonment of a child
11 by the biological father and abandonment of a
12 child by the biological father subsequent to
13 birth;

14 “(C) to assist mothers in making respon-
15 sible plans for their children’s future; and

16 “(D) to protect the privacy and safety of
17 birth mothers and fathers; and

18 “(2) reimbursing States for any costs incurred
19 in meeting the requirements of this subpart.

20 “(b) ELIGIBILITY REQUIREMENTS.—The Secretary
21 may not make a grant to a State under this section unless
22 the State demonstrates to the Secretary that the State
23 has—

24 “(1) a State plan in effect that has been ap-
25 proved by the Secretary under section 443;

1 “(2) established, or agreed to establish, a State
2 Putative Father Registry under section 444; and

3 “(3) implemented or has agreed to implement—

4 “(A) a law on pre-birth abandonment and
5 abandonment subsequent to birth under section
6 445(a);

7 “(B) a State media educational campaign
8 under section 445(b); and

9 “(C) adoption laws under section 445(c).

10 “(c) AUTHORIZATION OF APPROPRIATIONS.—There
11 are authorized to be appropriated such sums as are nec-
12 essary for fiscal year 2009 and each fiscal year thereafter
13 for purposes of awarding grants to States under this sec-
14 tion.

15 **“SEC. 443. STATE PLAN FOR PROMOTING RESPONSIBLE FA-**
16 **THERHOOD AND PERMANENCY FOR CHIL-**
17 **DREN.**

18 “Each State that desires to receive a grant under sec-
19 tion 442 shall develop and implement a State plan for pro-
20 moting responsible fatherhood and permanency for chil-
21 dren that—

22 “(1) has been approved by the Secretary;

23 “(2) shall be in effect in all political subdivi-
24 sions of the State;

1 “(3) establishes or designates a single organiza-
2 tional unit within the State that meets such staffing
3 and organizational requirements as the Secretary
4 may prescribe to administer the State plan and the
5 State Putative Father Registry required under sec-
6 tion 444;

7 “(4) provides services to children of unwed par-
8 ents related to the identification of putative fathers
9 and the making of permanent custody arrangements
10 for those children;

11 “(5) provides for the establishment of coopera-
12 tive agreements between the State and appropriate
13 agencies, such as courts, hospitals, and law enforce-
14 ment agencies, to assist the organizational unit es-
15 tablished or designated under paragraph (3) to ad-
16 minister the State plan by making available putative
17 father registry registration forms for mailing by pu-
18 tative fathers to such organizational unit;

19 “(6) provides assurances that the State will, in
20 accordance with standards prescribed by the Sec-
21 retary, cooperate with other States and the Federal
22 Government to assist individuals in their efforts to
23 locate and provide notice to putative fathers;

24 “(7) provides for a process of annual reviews
25 and reports to the Secretary on the State plan im-

1 plemented under this section, including such infor-
2 mation as may be necessary to measure compliance
3 with the requirements under this subpart;

4 “(8) provides that the State will establish and
5 maintain a State Putative Father Registry that
6 meets the requirements of section 444 or will modify
7 and maintain an existing registry to meet such re-
8 quirements;

9 “(9) provides for a process under which a reg-
10 istered putative father will receive notice at the ad-
11 dress provided to the registry, within State deter-
12 mined guidelines and time-limits, of a proceeding to
13 establish the paternity of, of a proceeding to termi-
14 nate the putative father’s rights to, or of a pro-
15 ceeding related to a planned or pending adoption of
16 a child the putative father has or may have fathered,
17 or of the entry of such a child into State custody;

18 “(10) amends the State long-arm jurisdictional
19 statute to ensure that personal jurisdiction is estab-
20 lished for a father registered with the National Pu-
21 tative Father Registry established under section
22 441(a); and

23 “(11) provides that the State will establish pro-
24 cedures, if not already in place, to protect the safety

1 and privacy of mothers, including those who have
2 been the victims of violence.

3 **“SEC. 444. STATE PUTATIVE FATHER REGISTRIES.**

4 “(a) ESTABLISHMENT AND MAINTENANCE.—

5 “(1) IN GENERAL.—Subject to paragraph (2),
6 each State that desires to receive a grant under sec-
7 tion 442 shall provide assurances to the Secretary
8 that the State will establish and maintain an auto-
9 mated putative father registry that meets the suc-
10 ceeding requirements of this section.

11 “(2) EXISTING STATE PUTATIVE FATHER REG-
12 ISTRIES.—A State that has a putative father reg-
13 istry in existence on the date of enactment of this
14 subpart and desires to receive a grant under section
15 442 shall provide assurances to the Secretary that
16 the State will, not later than 180 days from the last
17 day of the first regular session of the State legisla-
18 ture that begins after the date of enactment of this
19 subpart, modify the registry to the extent necessary
20 for the registry to meet the succeeding requirements
21 of this section with respect to putative fathers who
22 register with the State on or after that day. For
23 purposes of the previous sentence, in the case of a
24 State that has a 2-year legislative session, each year

1 of the session is considered to be a separate, regular
2 session of the State legislature.

3 “(b) REGISTRATION WITH THE STATE PUTATIVE
4 FATHER REGISTRY.—

5 “(1) SUBMISSION OF INFORMATION.—The
6 State shall establish procedures under which the pu-
7 tative father of such child may submit the informa-
8 tion described in subsection (c) to the State for the
9 purpose of including such information in the registry
10 established or modified and maintained under sub-
11 section (a). Such procedures shall provide that, in
12 order for the putative father to be entitled to notice
13 of any of the proceedings identified in section
14 441(a)(8), the putative father must submit informa-
15 tion for inclusion in the State registry within State-
16 determined time limits.

17 “(2) VERIFICATION.—The procedures estab-
18 lished under paragraph (1) shall include a means to
19 verify that the information submitted by a putative
20 father is his own personal information and that it is
21 true and correct to the best of his knowledge.

22 “(c) CONTENTS.—With respect to a child, the reg-
23 istry established or modified and maintained under sub-
24 section (a) shall contain the following information:

1 “(1) The name of the putative father (including
2 any other names by which he may be known).

3 “(2) The date of birth of the putative father.

4 “(3) The Social Security number of the putative
5 father.

6 “(4) The State of issue and driver’s license
7 number of the putative father, if any.

8 “(5) The home address of the putative father.

9 “(6) The telephone number of the putative fa-
10 ther, if any.

11 “(7) The name and address of the employer of
12 the putative father, if any.

13 “(8) The name of the mother (including any
14 other names by which she may be known).

15 “(9) The last known address of the mother.

16 “(10) The date of birth of the mother, if
17 known.

18 “(11) The Social Security number of the moth-
19 er, if known.

20 “(12) The race or ethnicity of the mother, if
21 known.

22 “(13) The State of issue and driver’s license
23 number of the mother, if known.

24 “(14) The city and State where possible concep-
25 tion took place.

1 “(15) The birth date of the child or the approx-
2 imate delivery date, if known.

3 “(16) The name and gender of the child, if
4 known.

5 “(d) COLLECTION OF STATE INFORMATION AND
6 TRANSMISSION TO THE NATIONAL PUTATIVE FATHER
7 REGISTRY.—

8 “(1) COLLECTION.—The State shall collect the
9 information described in subsection (c) submitted by
10 the putative father and enter such information into
11 the State Putative Father Registry established or
12 modified and maintained under subsection (a).

13 “(2) TRANSMISSION.—

14 “(A) IN GENERAL.—Not later than the
15 date that is 3 business days after the date on
16 which any information described in subsection
17 (c) is entered into the State Putative Father
18 Registry, the State shall furnish such informa-
19 tion to the Secretary for purposes of including
20 the information in the National Putative Father
21 Registry.

22 “(B) METHOD OF TRANSMISSION.—States
23 shall transmit the information described in sub-
24 section (b) in an electronic format designated
25 by the Secretary for purposes of this paragraph.

1 “(3) REQUIREMENT.—The procedures estab-
 2 lished under paragraph (1) shall include a means by
 3 which a putative father is informed that the registry
 4 may be used to establish an obligation to support a
 5 child or children. Registration shall not constitute an
 6 admission of guilt to any crime under Federal or
 7 State law.

8 “(e) ESTABLISHMENT OF REGISTRATION CEN-
 9 TERS.—

10 “(1) IN GENERAL.—The State shall establish
 11 centers in various locations throughout the State so
 12 that registration forms for the State Putative Father
 13 Registry are easily accessible to putative fathers.

14 “(2) SITES.—The sites of the centers described
 15 in paragraph (1) may include the following:

16 “(A) State and local hospitals.

17 “(B) Courthouses in which family courts
 18 are located.

19 “(C) State departments of motor vehicles.

20 “(D) State welfare agencies.

21 “(E) State health department offices.

22 “(F) State vital records offices.

23 “(G) State probate courts.

1 “(f) METHOD OF SUBMITTING REGISTRATION.—The
 2 State shall permit a putative father to submit information
 3 under this section electronically, in person, or by mail.

4 “(g) FALSE FILING.—Any person who knowingly
 5 submits false information to a State Putative Father Reg-
 6 istry shall be guilty of the highest class of misdemeanor
 7 under State law.

8 “(h) ACCURACY OF DATA.—A putative father is sole-
 9 ly responsible for the accuracy of the information con-
 10 tained in his registration. The information contained in
 11 the registration is presumed accurate. In the event that
 12 a putative father fails to update his profile, the notice de-
 13 scribed in section 441(a)(8) shall be deemed received by
 14 the putative father if sent or delivered to the putative fa-
 15 ther at the address provided by him under subsection (c).

16 “(i) PRIVACY SAFEGUARDS.—The State shall estab-
 17 lish procedures to ensure that the information maintained
 18 in the State Putative Father Registry is subject to the
 19 privacy safeguards established under section 454(26).

20 **“SEC. 445. ADDITIONAL REQUIREMENTS.**

21 “(a) STATE LAWS ON PRE-BIRTH ABANDONMENT
 22 AND ABANDONMENT SUBSEQUENT TO BIRTH.—Each
 23 State that desires to receive a grant under section 442
 24 shall provide assurances to the Secretary that the State
 25 has in effect or will enact a State law that—

1 “(1) defines what constitutes pre-birth aban-
2 donment and abandonment subsequent to birth; and

3 “(2) allows for implied consent to the child’s
4 adoption in the case of pre-birth abandonment or
5 abandonment subsequent to birth.

6 “(b) STATE MEDIA EDUCATIONAL CAMPAIGN.—
7 Each State that desires to receive a grant under section
8 442 shall provide assurances to the Secretary that the
9 State shall regularly and frequently publicize, through ad-
10 vertising campaigns, educational literature, and public
11 service announcements—

12 “(1) the availability of putative father establish-
13 ment services; and

14 “(2) that putative fathers should register with
15 the State Putative Father Registry.

16 “(c) REVOCATION OF ADOPTIONS.—Each State that
17 desires to receive a grant under section 442 shall provide
18 assurances to the Secretary that the State has in effect
19 or will enact State laws that—

20 “(1) set finite time limits in which an adoption
21 can be attacked on grounds of procedural irregular-
22 ities, fraud, or duress; and

- 1 “(2) establish a period of time after which the
- 2 revocation of an adoption would be presumed not to
- 3 be in the best interest of the child.”.

